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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/692,211	10/20/2000	Akihiko Ishibashi	0819-442	6705
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EXAMINER

MULPURI, SAVITRI

ART UNIT

PAPER NUMBER

2812

DATE MAILED: 04/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/692,211

Applicant(s)  
Ishibashi et al

Examiner  
Savitri Mulpuri

Art Unit  
2812



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jan 10, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 4-8, 10, 11, and 13 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s): \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s): 16 6) ☐ Other:

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### DETAILED ACTION

This action is in response to the applicant's amendment to claims filed on 1/8/03.

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371 © of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 8, 10, 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Kong et al US 2002/0022290 A)

Kong et al discloses a method of making nitride semiconductor device: providing a substrate "10"; forming seed crystals over the surface of the substrate; growing a first AlGaIn layer "12" over seed crystals at a pressure 76 Torr and temperature 1020 C; growing a second GaN or InGaIn layer "20" over AlGaIn layer at a temperature 1110 C and pressure 200 Torr, wherein second temperature and pressure are higher than first temperature and pressure (see figs 4, 5, 6 and related description and page 5 for example 1 and 2). Kong et al further disclose

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epitaxial layer "20" can be GaN or InGaN and can be used active layer for device. (see page 3, sec. 0041).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13, 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kong et al in combination with Nakamura (US 5,290,393)

Kong et al discloses a method of making nitride semiconductor device: providing a substrate "10"; forming seed crystals over the surface of the substrate; growing a first AlGaIn layer "12" over seed crystals at a pressure 76 Torr and temperature 1020 C; growing a second GaN or InGaN layer "20" over AlGaIn layer at a temperature 1110 C and pressure 200 Torr, wherein second temperature and pressure are higher than first temperature and pressure (see figs 4, 5, 6 and related description and page 5 sec. 0076, 0078 for example 1 and 2). Kong et al further disclose epitaxial layer "20" can be GaN or InGaN and can be used active layer for device. (see page 3, sec. 0041). Kong et al does not teach particularly growing buffer layer doped with magnesium. Nakamura teaches both undoped buffer layer (see background invention) or doping AlGaIn buffer layer either with p-type such as Mg or n-type dopants such as Sn. Nakamura also

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discloses growing buffer AlGaN layer at lower temperature than epitaxial layer (see col. 7, lines 3-28). It would have been obvious to one of ordinary skill in the art to dope buffer layer with Mg in the invention of Kong et al because Nakamura growing buffer layer either undoped or doped layer.

Applicant's arguments with respect to claims 13, 4-7 have been considered but are moot in view of the new ground(s) of rejection. Claim 13 is amended in such a way claims 13, 4-7 are now limited only to magnesium in the first layer.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Mulpuri whose telephone number is 703-305-5184. The fax phone number for the organization where this application or proceeding is assigned is 703-305-5184.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



SAVITRI MULPURI  
PRIMARY EXAMINER